

BC MENTAL HEALTH REVIEW BOARD

CODE OF CONDUCT

I. PURPOSE OF THE CODE OF CONDUCT

1. The purpose of the Code of Conduct is to promote the highest standards of conduct by members of the BC Mental Health Review Board [Board], in order to maintain and enhance public confidence in the integrity, independence, impartiality, and effectiveness of the Board.

II. APPLICATION OF THE CODE OF CONDUCT

2. Board members are required to comply with the Code of Conduct.
3. The Code of Conduct governs members' conduct from the commencement to the completion of their term of appointment, and outlines their continuing responsibilities after the completion of their term.

III. INTERPRETATION

4. The Code of Conduct is to be read together with the Board's *Rules of Practice and Procedure*, policies, practice directions, and codes of conduct for participants and representatives.
5. In the Code of Conduct, a Board proceeding includes all aspects of a review panel hearing under the *Mental Health Act* [RSBC 1996] Ch. 28.

IV. INTEGRITY

6. Members must act with honesty, integrity and high ethical standards.
7. Members must conduct themselves personally and professionally in a manner consistent with the nature of their responsibilities and the maintenance of public confidence in the administration of justice.
8. Members must not engage in conduct that exploits their position as a member of the Board.

9. Members must not use information which is not generally available to the public, and which the member has obtained through their Board duties, to obtain a personal benefit or a benefit for a person with whom the member has a relationship or association. This would not, in most cases, include a member's contributions to professional educational activities such as public conferences.

V. INDEPENDENCE

10. Members must conduct Board proceedings independently and free of extraneous influence.
11. Members must firmly reject any attempt to influence their decisions in any matter before the Board outside of the proper process of the Board.
12. Members must make each decision according to the true merits of the case, on the basis of evidence presented and the applicable law. Members must apply the law to the evidence in good faith and to the best of their ability. Members must approach decision-making with a mind that is genuinely open with respect to every issue, and open to persuasion by convincing evidence and argument. Members must avoid doing or saying anything that would cause a reasonable, well-informed individual to think otherwise.
13. Members must not be influenced by partisan interest, public opinion, fear of criticism, or the prospect of disapproval from any person, institution, or community.

VI. OBJECTIVITY AND IMPARTIALITY

A. Conduct generally

14. Members must act, personally and professionally, so as to avoid the appearance of bias.
15. Members may engage in remunerative employment with another employer, carry on a business, receive remuneration from public funds for activities outside their position, or engage in volunteer activities [**outside work**] provided that:
 - a. the member consults with the chair if there is any issue about whether the outside work complies with this provision;
 - b. arranges their outside work so as to minimize the likelihood of conflicts arising that may affect their neutrality or give rise to an allegation of bias;
 - c. the outside work does not:

- i. interfere with the performance of their duties as a member of the Board;
 - ii. bring the Board into disrepute;
 - iii. appear to be on behalf of the Board or to represent Board opinion or policy;
 - iv. involve the use of work time or government premises, services, equipment, or supplies;
 - v. result in an advantage or the appearance of an advantage to another person as a result of the member's appointment as a member of the Board; or
 - vi. result in payment while the member is in receipt of short-term and/or long-term disability plan payments.
- 16. Members must not offer assistance or provide legal, consulting or other services in relation to a matter before the Board or that could come before the Board, other than the assistance given in the ordinary course of their duties, whether the assistance or services are provided for remuneration or otherwise.
- 17. A member must not accept money, awards, or gifts from persons who may be or who have been affected by a Board decision. A member shall normally be allowed to accept a gift offered as an honorarium for a speaking engagement. If there is any doubt regarding the propriety of accepting a gift, the member should consult with the chair.
- 18. Subject to paragraphs 25 and 26, Members are not prohibited from infrequent attendance at lunches, dinners, or public also attended by an individual or representative of an organization which regularly appears before the Board. If there is any doubt regarding the propriety of attending an event, the member should consult with the chair.
- 19. Members are free to engage in political activities so long as they are able to maintain their impartiality and the perception of impartiality in relation to their duties and responsibilities. Members' political activities must be clearly separated from activities related to their role as members.
- 20. Members using social media must ensure that they do so in a manner that minimizes concerns about their neutrality and should avoid having persons who are representatives before the Board as a "friend", unless that person is identified as a

conflict (see paragraph 28).

B. Conduct of Board proceedings

21. Members must maintain their objectivity and impartiality in the conduct of all Board proceedings, and must refrain from conducting themselves in a manner that might suggest a lack of objectivity or impartiality.
22. A member must not participate in any Board proceeding or discussion in which the facts may give rise to a reasonable apprehension of bias or conflict of interest on the part of the member.
23. A member must not participate in any Board proceeding where the member has (or has had within the last 12 months) a significant or close personal, professional, or business relationship with a party, party's representative, or witness.
24. A member must not participate in any Board proceeding in which the member or close relation or associate of the member has had any prior involvement.
25. A member must not communicate directly or indirectly with any party, representative, or witness at any stage of a Board proceeding except in the presence of all parties and/or their representatives, or unless the correspondence is copied to all the parties and/or their representatives.
26. Where a member cannot reasonably avoid brief contact with a party, representative or witness during the course of a proceeding absent all parties and their representatives, the member will restrict their communication to uncontroversial matters unrelated to the proceeding.

C. Bias and conflict of interest

27. A reasonable apprehension of bias exists when a reasonable, well-informed person, viewing the matter realistically and practically, and having thought the matter through, would conclude that it is more likely than not that the member, whether consciously or unconsciously, would not decide fairly.
28. A member must identify and disclose to the Board chair, at the earliest possible opportunity, circumstances which may give rise to a reasonable apprehension of bias or conflict of interest in respect of any of the member's responsibilities. If a member has any question as to whether a reasonable apprehension of bias or conflict of interest exists, the member must consult with the chair at the earliest opportunity in order to

make that determination.

29. Where it has been determined that a reasonable apprehension of bias or conflict of interest may exist, the member must not participate in that review panel hearing and a notation will be made on the front of the paper file and on the electronic file that the member shall have no access to that file.
30. Where the chair determines that the chair has a potential bias or conflict of interest in respect of a matter before the Board, the chair must instruct Board staff that all communications regarding the matter are to be directed to a designated member of the Board. The file will be marked “No Access to Board Chair” and the chair must not participate in decisions regarding the application, including the choice of member designated to make a decision in respect of the application, the scheduling of the hearing, or the release of the decision.
31. Where a member becomes aware, after being designated to make a decision in respect of an application, of a possible conflict of interest or of facts which may give rise to a reasonable apprehension of bias, and the circumstances are unknown to the parties or their representatives, the member must:
 - a. resign from the proceeding if the member determines that there is a reasonable apprehension of bias; or
 - b. inform the parties of the circumstances, hear submissions from the parties, and then make a determination on whether they should resign from the matter.
32. Where an allegation of conflict of interest or bias is raised by a party, the member may hear submissions from the parties, and must determine whether they should resign from the matter.

VII. EQUALITY AND RESPECT

33. Members must treat all persons in the course of a Board proceeding with courtesy and respect and in a manner that builds trust and confidence in the Board and the administration of justice.
34. Members should make every effort to ensure that all participants and their representatives treat each other with courtesy and respect.
35. Members must carry out their duties with appropriate consideration for all persons without discrimination.

36. Members should strive to be aware of and understand differences arising from, for example, gender, race, religious conviction, culture, ethnic background, sexual orientation, or disability. In the course of their duties, members must act in a manner that demonstrates an understanding of diversity.
37. Members must avoid membership in any organization that they know currently practices any form of discrimination that contravenes the law.
38. Members, in the conduct of a Board proceeding, should disassociate themselves from and disapprove of clearly irrelevant comments or conduct by a party, representative or other person subject to the member's direction which are sexist, racist, or otherwise demonstrate discrimination.

VIII. ACCESSIBILITY AND SELF-REPRESENTED PERSONS

39. Members should strive to be aware of barriers which may restrict access to the Board.
40. Members must give effect to the Board's obligation to ensure access to the Board through reasonable accommodation.
41. While maintaining the required objectivity and impartiality, members must promote access to the Board and it may be appropriate for a member to:
 - a. explain to a self-represented party the procedure to be followed;
 - b. outline the relevant evidentiary and procedural rules;
 - c. outline the uncontested legal principles which apply to the application;
 - d. modify the process including the usual order of taking evidence; or
 - e. question witnesses.
42. Members should ensure that procedural and evidentiary rules are not used to unjustly hinder the legal interests of self-represented persons.

IX. EXPERTISE AND COMPETENCE

43. Members should be expert and current with the relevant legislation, rules, and policies.
44. Members should take reasonable steps to maintain and enhance their knowledge and skills necessary to fulfil their duties as a member, including participating in members'

meetings and Board training and professional development.

45. Members must take reasonable steps to ensure that hearings are concluded in a timely manner, avoiding unnecessary delays.
46. Members should release decisions as soon as possible after the completion of a hearing, and are expected to meet applicable timelines, policies and standards.
47. Members should be fully prepared for a proceeding and ensure that proceedings are conducted in an orderly manner, in accordance with applicable rules.
48. Members must maintain the integrity of Board proceedings.
49. Members must ensure that decisions are prepared in accordance with Board policies and guidelines, including style and writing guidelines.
50. Members must give due consideration to the law and the value of consistency in exercising their independent decision-making authority.

X. COLLEGIALITY

51. Members must foster a collegial working environment and conduct themselves in a manner that reinforces the integrity and professionalism of the Board.
52. Members must conduct themselves in a manner that demonstrates respect for the views and opinions of colleagues.

XI. CONFIDENTIALITY AND PUBLIC COMMENT

53. Members must respect the confidentiality of the Board's decision-making processes. Except as required by law, a member must not divulge confidential information obtained in the course of their duties, other than information which is generally available to the public.
54. Members must not comment publicly on any aspect of a matter that is before the Board or is likely to come before the Board, or on another member's conduct.
55. Members must not comment publicly on a decision of the Board and will refer all inquiries from the media to the chair or registrar.
56. Members may only represent the Board in their activities outside the Board when specifically authorized by the chair to do so.

XII. OBLIGATIONS AFTER CEASING TO BE A MEMBER

57. A member must not appear before the Board as a representative, until six months after the member's term of appointment to the Board has terminated.
58. After the conclusion of their term of appointment, a member has a continuing obligation to maintain the confidentiality of confidential information which had been obtained in the course of their duties as a member.

XIII. CONSEQUENCES

59. The chair will make whatever inquiries or investigations that the chair determines necessary to determine if a member has breached the Code of Conduct. The chair may report the results and any steps consequently taken to the person who brought the issue to the chair's attention, if the chair determines it is appropriate to do so.
60. If the chair considers that a member may have breached the Code of Conduct, the chair will notify the member whose conduct is in issue and give the member an opportunity to respond, both to the allegation and to any steps proposed to address a breach.
61. If the chair determines that a member has breached the Code of Conduct, the chair will determine what steps are to be taken, taking into account all relevant factors, including whether the breach occurred in good faith or through inadvertence. Steps may range from advising the member of the chair's decision or providing the member with a letter of expectation, to recommending to the appointing authority that the member not be reappointed for another term, or, in the most egregious circumstance, that their appointment be rescinded.